

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WENDY D.,

Plaintiff,

v.

ACTING COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 3:24-cv-05382-TLF

ORDER AFFIRMING
DEFENDANT'S DECISION TO
DENY BENEFITS

Plaintiff filed this action pursuant to 42 U.S.C. § 405(g) for judicial review of defendant's denial of plaintiff's application for supplemental security income ("SSI"). Pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local Rule MJR 13, the parties have consented to the jurisdiction of a Magistrate Judge. Dkt. 2. Plaintiff challenges the Administrative Law Judge's ("ALJ") decision finding that plaintiff was not disabled. Dkt. 4, Complaint.

On January 17, 2020 plaintiff filed an application for SSI benefits alleging a disability onset date of April 14, 2014. AR 120 The application was denied initially and upon reconsideration. AR 146, 159. On June 15, 2023 a hearing was held in front of ALJ Deanna Sokolski. AR 15-61. On July 26, 2023 the ALJ issued an unfavorable decision finding plaintiff not to be disabled. AR 120-136.

The ALJ found the following severe impairments: depressive disorder, attention deficit hyperactivity disorder (ADHD) and anxiety disorder. AR 123. The ALJ determined

1 plaintiff had the residual functional capacity (“RFC”) to perform a full range of work at all
2 levels with the following limitations:

3 Never climb ladders, ropes, or scaffolds; avoid all exposure to workplace hazards
4 such as unprotected heights and dangerous moving machinery; can perform
5 simple routine tasks in an environment not involving work requiring a specific
6 production rate such as assembly line work or work that requires hourly quotas
7 but can perform work involving simple work related decisions, occasional work
8 place changes, occasional interaction with supervisors and coworkers, no
9 interaction with the public as part of the job duties; and can perform a job that
10 does not involve working in tandem with another employee.

11 AR 126. The ALJ determined plaintiff could perform the following jobs: floor waxer (DOT
12 #381.687-034, SVP 2, medium), laundry worker II (DOT #361.687-018, SVP 2, medium)
13 and counter supply worker (DOT #319.687-010, SVP 2, medium). AR 135. Additionally
14 the ALJ found that even if plaintiff had the RFC to perform light work she would be able
15 to perform the following jobs: merchandise marker (DOT #209.587-034, SVP 2, light),
16 routing clerk (DOT # 222.687-022, SVP 2, light), and folder (DOT #789.687-066, SVP 2,
17 light). AR 136.

18 STANDARD

19 Pursuant to 42 U.S.C. § 405(g), this Court may set aside the Commissioner's
20 denial of Social Security benefits if the ALJ's findings are based on legal error or not
21 supported by substantial evidence in the record as a whole. *Revels v. Berryhill*, 874
22 F.3d 648, 654 (9th Cir. 2017) (internal citations omitted). Substantial evidence is “such
23 relevant evidence as a reasonable mind might accept as adequate to support a
24 conclusion.” *Biestek v. Berryhill*, 139 S. Ct. 1148, 1154 (2019) (internal citations
25 omitted). The Court must consider the administrative record as a whole. *Garrison v.*
Colvin, 759 F.3d 995, 1009 (9th Cir. 2014). The Court also must weigh both the
evidence that supports and evidence that does not support the ALJ's conclusion. *Id.*

1 The Court may not affirm the decision of the ALJ for a reason upon which the ALJ did
2 not rely. *Id.* Rather, only the reasons identified by the ALJ are considered in the scope
3 of the Court’s review. *Id.*

4 DISCUSSION

5 **1. Medical evidence.**

6 Plaintiff argues the ALJ erred in evaluating the mental health opinion from
7 consultative examiner Kathryn Johnson, Ph.D. Dkt. 12 at 3-15.

8 Plaintiff filed the claim on January 17, 2020, so the ALJ applied the 2017
9 regulations. See AR 120. Under the 2017 regulations, the Commissioner “will not defer
10 or give any specific evidentiary weight . . . to any medical opinion(s) . . . including those
11 from [the claimant’s] medical sources.” 20 C.F.R. §§ 404.1520c(a), 416.920c(a). The
12 ALJ must nonetheless explain with specificity how he or she considered the factors of
13 supportability and consistency in evaluating the medical opinions. 20 C.F.R. §§
14 404.1520c(a)–(b), 416.920c(a)–(b).

15 In *Woods v. Kijakazi*, 32 F.4th 785 (9th Cir. 2022), the Court found that “the
16 requirement that ALJ’s provide ‘specific and legitimate reasons’¹ for rejecting a treating
17 or examining doctor’s opinion...is incompatible with the revised regulations” because
18 requiring ALJ’s to give a “more robust explanation when discrediting evidence from
19 certain sources necessarily favors the evidence from those sources.” *Id.* at 792. Under
20 the new regulations,

21 an ALJ cannot reject an examining or treating doctor’s opinion as
22 unsupported or inconsistent without providing an explanation supported by
substantial evidence. The agency must “articulate ... how persuasive” it

23 ¹ See *Murray v. Heckler*, 722 F.2d 499, 501 (9th Cir. 1983) (describing the standard of “specific and legitimate
24 reasons”).

1 finds “all of the medical opinions” from each doctor or other source, 20
2 C.F.R. § 404.1520c(b), and “explain how [it] considered the supportability
and consistency factors” in reaching these findings, *id.* § 404.1520c(b)(2).
3 *Id.*

4 On April 21, 2021 Dr. Johnson conducted an evaluation of plaintiff and prepared
5 a psychological diagnostic interview confidential report. AR 504-09. Dr. Davis diagnosed
6 plaintiff with ADHD, generalized anxiety disorder, social anxiety disorder, and major
7 depressive disorder, recurrent, with a seasonal pattern. AR 509. She opined that
8 attendance would be a severe problem in the workplace due to plaintiff’s sleep disorder
9 and anxiety. *Id.* She opined plaintiff would be unable to reliably engage in any activities
10 in the morning and overall timeliness has been a long standing issue. AR 509. She
11 opined plaintiff would do best in predictable settings. *Id.*

12 The ALJ determined Dr. Johnson’s opinion was not persuasive, because the
13 severe limitations in functioning, attendance, and timeliness were not supported by the
14 evaluation findings but were based off plaintiff’s reports of tardiness, reliability,
15 distractibility, and sleep difficulties. AR 132. The ALJ also found the opinion to be
16 inconsistent with the overall treatment record showing plaintiff experienced mood
17 stabilization, manageable anxiety, good focus and concentration, good energy, and
18 improved sleep with medication. *Id.* (citing AR 466-86; 511-25; 550-67). The ALJ also
19 found the opinion regarding plaintiff’s ability to persist and follow through with tasks to
20 be inconsistent with the evidence that plaintiff successfully worked part-time doing
21 gardening, drove a vehicle, and shopped in stores. *Id.*

22 Consistency with the record is an important factor in assessing the weight to give
23 a medical opinion, yet mental examinations must be considered in the context of the
24 overall record. *Ghanim v. Colvin*, 763 F.3d 1154, 1161 (9th Cir. 2014). Here the ALJ
25

1 found Dr. Johnson's opinion to be inconsistent with the records showing plaintiff
2 "experienced mood stabilization, manageable anxiety, good focus and concentration,
3 good energy, and improved sleep with medication." AR 132 (citing AR 466-86; 511-25;
4 550-67).

5 Substantial evidence in the medical record supports the ALJ's conclusion. In the
6 notes from medication management appointments that the ALJ references, plaintiff was
7 at times noted to have a "labile" mood with anxiety, panic, but appropriate affect. AR
8 521, 483, 480, 477, 476, 473, 468. However, her mood was also frequently reported to
9 be "euthymic." AR 566, 563, 560, 557, 554, 524, 518. It was also noted that she had
10 difficulty with sleep (AR 467), and she consistently reported success with medication
11 and sleeping through the night (AR 562, 559, 556, 550, 523, 520, 517).

12 Plaintiff highlights portion of the rerecord where she reported heightened anxiety
13 symptoms, discussed difficulty with timeliness, and reported needing reminders or tools
14 to help her with concentration and focus. Dkt. 12 at 9-10 (citing AR 440, 439, 448, 447,
15 452, 451, 467, 470, 479, 482, 523). But, the ALJ took these portions of the record into
16 consideration in her evaluation of plaintiff's symptoms and limitations. AR 128.

17 The ALJ is responsible for determining credibility and resolving ambiguities and
18 conflicts in the medical evidence. *Reddick v. Chater*, 157 F.3d 715, 722 (9th Cir. 1998).
19 Where the evidence is inconclusive, "questions of credibility and resolution of conflicts
20 are functions solely of the [ALJ]." *Sample v. Schweiker*, 694 F.2d 639, 642 (9th Cir.
21 1982). In such situations, "the ALJ's conclusion must be upheld." *Morgan v. Comm'r of*
22 *Soc. Sec. Admin.*, 169 F.3d 595, 601 (9th Cir. 1999). Determining whether
23 inconsistencies in the evidence "are material (or in fact are inconsistencies at all) and
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1 whether certain factors are relevant to discount” medical opinions “falls within this
2 responsibility.” *Id.* at 603.

3 Here the ALJ identified inconsistencies between the record and Dr. Johnson’s
4 opinion and this reason is supported by substantial evidence in the record; this is a valid
5 reason to discount Dr. Johnson’s opinion. Any error regarding the other reasons the ALJ
6 gave for discounting the opinion would be harmless. Therefore, the Court will not
7 consider the first or third reasons provided by the ALJ for discounting Dr. Johnson’s
8 opinion. See *Carmickle v. Comm’r of Soc. Sec. Admin.*, 533 F.3d 1155, 1162-63 (9th
9 Cir. 2008) (if at least one reason is legally valid then inclusion of erroneous reasons is
10 harmless).

11 CONCLUSION

12 Based on the foregoing discussion, the Court concludes the ALJ properly
13 determined plaintiff to be not disabled. Therefore, the ALJ’s decision is affirmed.
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15 Dated this 27th day of March, 2025.

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17 Theresa L. Fricke
18 United States Magistrate Judge
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